

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

D.A.N. JOINT VENTURE III, L.P., as)	
Assignee of Bankruptcy Trustee Richard M.)	
Fogel, the Chapter 7 Trustee for the)	
Bankruptcy Estate of Debtor Nicholas S.)	Case No. 1:18-cv-00349
Gouletas; and D.A.N. JOINT VENTURE III,)	
L.P., as Assignee of Judgment Creditor 800)	Hon. Robert M. Dow, Jr.
South Wells Commercial, LLC,)	
)	
Plaintiffs,)	
)	
v.)	
)	
DOROTHEA TOURIS, <i>et al.</i> ,)	
)	
Defendants.)	

DEFENDANT BEERMANN PRITIKIN MIRABELLI SWERDLOVE LLP'S
MOTION TO PARTIALLY JOIN DEFENDANT PAUL JONES, M.D.'s MOTION TO
DISMISS

NOW COMES Defendant Beermann Pritikin Mirabelli Swerdlove LLP (“BPMS”), by and through its attorneys, Wilson Elser LLP, and moves to partially join the Motion to Dismiss [ECF No. 230] and Memorandum in Support of the Motion to Dismiss [ECF No. 231] filed by Defendant Paul Jones, M.D. (“Jones”) (collectively, the Motion and Memorandum are referred to herein as “Jones’s Motion”), and in support thereof states as follows:

1. Plaintiffs, D.A.N. Joint Venture III, L.P. (“DJV”), as assignee of bankruptcy trustee Richard M. Fogel, the Chapter 7 Trustee for the Bankruptcy Estate of Debtor Nicholas S. Gouletas, and DJV., as assignee of Judgment Creditor 800 South Wells Commercial, LLC, filed a Third Amended Complaint (“TAC”) against a number of individuals, including BPMS, alleging violations of the Illinois Uniform Fraudulent Transfer Act.

2. In relevant part, the TAC seeks to avoid transfers allegedly made “by or on behalf of Gouletas from funds that legally and equitably belonged Gouletas with the intent to hinder, delay or defraud Gouletas’s disfavored creditors.” (ECF No. 204 at ¶106).

3. As set forth in Jones’s Motion, Plaintiffs cannot establish any fraudulent transfer claims because they are premised upon an impermissible reverse alter ego/veil piercing theory. (ECF No. 231 at pp. 7-9).

4. If this Honorable Court grants Jones’s Motion and determines that Plaintiffs’ fraudulent transfer claims are premised upon an impermissible reverse alter ego/piercing theory, the Order would dispose of the fraudulent transfer claims against BPMS as well.

5. To avoid any doubt that the claims against BPMS should be dismissed if Jones’s Motion is granted, and to avoid duplicative briefing, BPMS expressly joins in the portions of Jones’s Motion related to the assertion that Plaintiffs’ fraudulent transfer claims are premised on an impermissible reverse alter ego/piercing theory; and respectfully requests that this Court dismiss the claims against BPMS for the reasons stated therein.

6. As set forth in Jones’s Motion, Illinois does not recognize the reverse alter ego/piercing theory on which Plaintiffs’ fraudulent transfer claims depend. (*See* ECF No. 231 at pp. 8-9; citing *Gierum v. Glick (In re Glick)*, 568 B.R. 634, 662-64 (Bankr. N.D. Ill. 2017)).

7. Here, Plaintiffs’ fraudulent transfer claims against BPMS are predicated on funds that belonged to Home by Invsco, Inc. (“HBI”), an Illinois corporation, not Gouletas individually.

8. By way of the TAC, Plaintiffs do not seek to pierce the veil of HBI to reach Gouletas himself or his individual property (a conventional piercing claim).

9. Instead, Plaintiffs seek to “reverse pierce” through Gouletas, in an effort to reach the property of HBI and have it deemed property of Gouletas’s bankruptcy estate (a reverse alter ego/piercing claim).

10. Illinois law does not recognize this type of reverse piercing and, therefore, Counts I and IV should be dismissed against BPMS with prejudice.

WHEREFORE Defendant Beermann Pritikin Mirabelli Swerdlove LLP respectfully requests that this Honorable Court grant it leave to partially join Jones’s Motion and for any other relief this Court deems necessary and just.

Respectfully submitted,

DATED: May 9, 2022

By: /s/ Kimberly E. Blair
*One of the Attorney for Defendant Beermann Pritikin
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CERTIFICATE OF SERVICE

I hereby certify that on May 9, 2022, I electronically filed the aforesaid document(s) with the Clerk of the Court using the ECF system which will send notification of such filing to all parties of record in this case by operation of the Court's electronic filing system and/or U.S. Mail. Parties may access this filing through the Court's system.

/s/ Kimberly E. Blair

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